

**REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LEON VALLEY,
TEXAS, JULY 6, 2006, 7:00 P.M.**

The City Council of the City of Leon Valley, Texas, met for a Regular Meeting on the 6th day of July 2006 at 7:00 p.m., at the Leon Valley City Council Chambers, for the purpose of the following business, to-wit:

Call to Order and Pledge of Allegiance.

Mayor Riley called the meeting to order and asked that the minutes reflect that the following members of Council were present: Maloy, Reyna, Semmelmann, Dean, and Rangel.

City Manager Cortes, City Secretary Feutz, Fire Chief Irwin, Interim Police Chief Wallace, Interim Director of Public Works Stolz, City Accountant Wallace, Community Development Director Smith, Economic Development Liaison Caldera, Human Resources Officer Schendel, Library Director Trent, and City Attorney Jacobson were also present.

Mayor Riley asked City Engineer Patrick Wright to lead the Pledge of Allegiance.

Consider approval of minutes of the Regular City Council Meeting of June 20, 2006 and the Special City Council Meeting of June 27, 2006.

A motion was made by Councilmember Rangel, seconded by Councilmember Dean, to approve the minutes of the Regular City Council Meeting of June 20, 2006 and the Special City Council Meeting of June 27, 2006. Councilmember Maloy asked that the minutes of June 20, 2006 be corrected to reflect that after "Ordinance #06-014 - Appointments to the Zoning and Land Use Commission and the Board of Adjustment" was approved, she stated that she had asked that a quarterly report be submitted to Council reflecting the attendance of the members. Councilmembers Rangel and Dean amended their motion to approve the minutes as corrected. Upon vote, the motion carried unanimously.

Recognition of retirement of Public Works Director Patrick Wright.

Mayor Riley presented Patrick Wright with an engraved plaque in appreciation for his years of service as the City's Director of Public Works. She explained that Mr. Wright was retiring as a full time employee. Mr. Wright thanked Council, staff and the citizens for their support and thanked the City for allowing him to continue to work part time as the City Engineer.

Citizens to Be Heard.

Mayor Riley asked if anyone in the audience wished to address Council.

Resident Cynthia Rangel addressed Council asking for support in finding more volunteers to support the Trade and Market Days Committee. Mayor Riley stated that she would help on the next Saturday and asked Councilmembers to help recruit volunteers for the Committee. Councilmember Semmelmann asked the audience to help by providing a few hours each month helping with the Trade and Market Days.

Resident Bob Tome asked Council if this was the time to address Council on the proposed resolution scheduled for later in the meeting. Council discussion agreed that the "Citizens to be Heard" time on the agenda was the time to hear citizen input on items on the agenda not scheduled for a public hearing.

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Mr. Tome addressed Council stating that he was a resident and was a representative of Intertec Automotive Research, a business in Leon Valley. He stated that he was opposed to Council approving the resolution opposing the elevated or toll highway because the heavy traffic on Bandera Road needed to be reduced. He suggested that the toll road funding could possibly help fund wider sidewalks.

Former Mayor Marcy Meffert addressed Council voicing her objections to the toll road and expressed her concerns for the division such a road would put on the City.

Former Mayor Irene Baldrige addressed Council stating her objections to the proposed toll road in Leon Valley. She expressed her objection to the division the elevated toll road would have on both residential and business communities. She expressed her belief that a loss of businesses would cause an increase in taxes for the residents.

Resident Al Uvietta addressed Council stating that he was against the elevated roadway, toll road or non-toll road, due to increased noise, poor aesthetics, and a lack of alternatives being considered to address the congestion issue. Mr. Uvietta informed Council that a crossbow arrow had been found in the interior of the Leon Valley natural area. He stated that findings of bags of deer corn, several deer carcasses and the arrow suggest that illegal and dangerous hunting is occurring in the Raymond Rimkus Park area. He stated that the evidence had been reported to the Leon Valley Police Department and the Texas Parks and Wildlife game wardens. He recommended that citizens be cautioned of the suspicious activity and suggested that security cameras and increased surveillance be used to deter such activity.

Resident Mary Ruth Hernandez, addressed Council asking if studies for alternate congestion solutions have been done and asked where citizens could find those studies. Mayor Riley announced that on July 27, 2006 at 7:00 p.m., the Alamo Regional Mobility Authority would be hosting a public hearing at the John Marshall High School to hear from the public their opinions on the Bandera Road congestion solutions.

Resident and Leon Valley Chamber of Commerce President Phillip Manea addressed Council stating that he had polled Chamber of Commerce members and the majority were opposed to the elevated roadway in Leon Valley. He stated that the members believe that an elevated roadway would negatively affect their businesses and he urged Council to pass the proposed resolution on this agenda.

Resident, Philip Muerer, addressed Council, stating that he thought that a study was going to be done to determine what was the best alternative for the Bandera Road congestion. He asked Council to keep all options open in regards to addressing this issue.

Resident Hubert Lange addressed Council stating that less than 30% of City income comes from sales taxes. He asked Council to consider that citizens have asked for help with the amount of traffic and the speeders on Seneca, Forest Ridge and Forest Meadow and he asked Council to consider those residents when they make their decision.

Resident Dan Yelasic of Handsome Lake addressed Council and complained of the noise that is keeping awake now with road work on Bandera Road at night now. He asked how the elevated roadway will help citizens of Leon Valley if it has no exits between Leon Valley and Loop 1604.

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Resident David Przybylski addressed Council expressing his opposition to the flyover and encouraged consideration of other options to address traffic congestion on Bandera Road.

Resident Walter Geraghty addressed Council stating that he served two years on the Bexar County Transportation Organization at which Bandera Road was identified as one of eighteen roadways that had traffic problems. He asked how many cities in Texas have an elevated flyover 100 feet from the entrance of City Hall. He asked Council to keep all options open to include extending the width of Bandera Road to five lanes, but he recommended that Council reverse their support of any elevated lanes or toll road on Bandera Road.

Resident Cathy Nelson addressed Council stating that her home's proximity to Bandera Road will greatly increase the noise from traffic if the proposed elevated highway is built. She expressed her concerns of lower property values in her neighborhood due to the elevated highway proposal and asked Council to send a message in opposition to a toll or elevated road on Bandera Road.

Resident Nancy Schott suggested to Council that speed humps or bumps on roads be used to slow down speeders.

Alamo Regional Mobility Authority Executive Director Terry Brechtal read a statement to Council regarding the proposed resolution on the Bandera Road project. She stated that a toll road or elevated road was only one alternative for the Bandera Road project. She invited everyone to attend the public meeting on July 27th.

She again stated that the Alamo RMA had not selected a primary solution to the Bandera Road congestion. She stated that the toll road was an alternative suggested by the Texas Department of Transportation. She stated that several options would be considered for the Bandera Road corridor including a "no build" option to find the best solution to address the congestion on Bandera Road.

Resident Alie Baldrige addressed Council stating that he was opposed to a toll road on Bandera Road. He stated that about 50% of his business comes from outside of the City limits and he expressed his concern that he will lose business. He stated that he felt that the construction alone would make it very difficult to recruit additional businesses to Leon Valley and produce any positive economic development to the City.

Mayor Riley asked if anyone else wished to address the Council, seeing no one she asked the Council if they wished to move Agenda Item # 9 before Agenda Item #5. Hearing no motion, Mayor Riley read the next agenda item.

Regular Agenda

Public hearing to consider Zoning Case #06-371, with attached Ordinance - A request by Alberto Milmo, agent for Milmo Investments, LLC, applicant, to rezone approximately 11.277 acres, from R-1 (Single-Family Dwelling) and R-2 (Two-Family Dwelling) and B-3 (Commercial) to R-3 (Multiple-Family Dwelling) zoning districts. The Zoning Commission recommends denial of the request. Staff concurs.

Mayor Riley announced that there was a correction to the agenda item as printed. She noted that the Zoning and Land Use Commission had voted four to three in favor of the case and staff concurred.

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Community Development Director Melinda Smith presented the case information to Council explaining that the zoning case was a request to rezone approximately 11.277 acres from R-1 (Single-Family Dwelling), R-2 (Two-Family Dwelling) and B-3 (Commercial), to R-3 (Multi-Family Dwelling) zoning at 6300 Grissom Road. She reviewed the surrounding zoning and land uses and reviewed the platting and zoning history of the property. She reminded Council that a request to rezone five acres of the property to R-4 (Townhouse Dwelling) in 2005 was denied. Ms. Smith stated that the 2003 Master Plan, Sections 4CC Grissom Road Corridor and 5N Sawyer Road-Leon Valley Addition Area both address the area but that it did not directly address rezoning the property to R-3. Ms. Smith reminded Council that the decision to approve the rezoning should be based upon whether or not R-3 (Multi-Family Dwelling) zoning is appropriate for this area and not on the apartment project being proposed. She further stated that the Master Plan encourages Grissom Road be maintained as a commercial corridor. Ms. Smith stated that the R-3 zoning was not consistent with the Master Plan guidelines to keep the rural quality of the area and that the Zoning Code regulations indicate that commercial and industrial uses are prohibited from being located within R-3 districts and discourages B-3 zoning districts from abutting residential uses. She further stated that traffic impact analysis indicated that 109 vehicles could be entering and exiting the property during peak hours.

Ms. Smith stated that at the time the case presentation was printed, the City had mailed 17 letters to property owners within 200-feet and five letters were received in favor of the case and five letters were received in opposition to the case with one letter being from a party outside of 200 feet from the property site. Ms. Smith informed Council according to Local Government code, Chapter 211, if the change to a proposed zoning district is protested in accordance with the law, in order for the change to take effect, an affirmative vote must be received from at least three-fourths of all members of the governing body. Ms. Smith stated that additional letters had been received in protest and in favor of this case since the case presentation was printed. She noted that with the added protest letters, three-fourths of Council, or four of the five Councilmembers, must vote affirmatively for the zoning change in order for this case to be considered approved.

Zoning and Land Use Commission Chair Leo Gorman addressed the Council stating that on June 27, 2006, the Commission voted, after careful consideration, to approve the request by a vote of four votes to three (4:3)

Applicant Alberto Milmo, representing Milmo Investments, Ltd., presented members of his development team and described the proposed Barcelona development, a 176-unit apartment complex to be built in the 6300 block of Bandera Road, between a church and a mini-storage complex. He described the proposed development he planned and providing slides of the project to be built at the site if the zoning case was approved by Council. He stated that the felt his development would increase real estate values but that it would not increase traffic on Sawyer Road as there would be only a single entrance on Grissom Road for the proposed fenced and gated community. He explained that he felt that the proposed development would significantly improve the area with the proposed \$8-\$10 million dollar development investment. He described a proposed fifty-foot front setback off Grissom Road and landscape buffers between the parking and driveways and Sawyer Road at the rear of the property. Mr. Milmo and members of his development team presented reasons why the proposed project should be approved by Council.

Councilmember Maloy asked staff if the zoning change was approved, was there any guarantee that the development project as presented could not be changed. Ms. Smith answered that Council was being asked to consider if R-3 (Multi-Family Dwelling) zoning was appropriate for the site. She

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reminded Council that there was no Specific Use Permit requirement if the site was re-zoned to R-3 (Multi-Family Dwelling).

Mayor Riley opened the public hearing at 8:24 p.m.

Resident Celia Ramirez asked for clarification of the 109 vehicles per peak hour. Ms. Smith explained that the Traffic Impact Analysis provides an educated estimate of expected traffic during peak travel times. She further explained that the traffic impact analysis for this case expects 109 vehicles as the number of vehicles entering and exiting the site during peak travel times.

Resident Debbie Kingery addressed Council stating that her family has lived on Sawyer Road, directly behind the proposed project, for forty-three years. She asked Council to deny the request to change the R-1 (Single-Family Dwelling) zoning to R-3 (Multi-Family Dwelling) zoning.

Resident Alie Baldrige addressed Council and recommended Council approve the zoning case. He also asked what could the City do if the developer does not build the project as they presented at the Council meeting. Community Development Director Smith stated Council could require that a non-access easement could be included on the plat of the property, but that once the property was zoned to R-3 (Multi-Family Dwelling) there was no mechanism in the City Codes to require the property owner to build the project as presented to Council at this meeting.

Ben Miranda, property owner, addressed Council stating that he felt the case presented a win-win situation for the City, for the developer and for him, as the property owner. He asked Council to give favorable consideration to the case and stated that the improved property development would provide the City with additional ad valorem tax income and the project would bring an upscale development to the City.

Resident and business owner Walter Geraghty spoke in favor of the development project and case.

Mayor Riley asked if anyone else wished to address Council for the Public Hearing, hearing no one, she closed the public hearing at 8:35 p.m.

A motion was made by Councilmember Maloy to deny the zoning case as presented stating that the case was not in compliance with the Master Plan nor the Zoning Code. The motion was seconded by Councilmember Semmelmann. Councilmember Maloy expressed her concerns about placing residential zoning next to commercial-zoned property.

Councilmember Dean expressed his disagreement with the motion and his disappointment stating that the Master Plan was a living plan and felt that the project would be a boost for the area.

Councilmember Reyna asked if the applicant had met with neighborhood associations and he expressed his disappointment that the applicant had not consulted with neighbors when the project was being drawn up. Mr. Milmo stated that letters had been sent to neighbors explaining the proposed project and asking for their comments and concerns. Mr. Milmo stated that he did receive letters of support from neighboring properties.

Councilmember Semmelmann stated that although he liked the project presented, his experience since 1968 had been for some projects presented and promises made not being fulfilled as presented, and he was concerned that after the zoning was changed, the owners could sell the

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property and build a different multi-family dwelling project that would not be the type project presented at this Council meeting.

Councilmember Rangel asked if the resident, Ms. Kingery, received a letter from the applicant. Ms. Kingery stated that she had received a letter, but stated that the applicants had not met with her.

Following discussion, the Council was polled and voted as follows: Maloy for the motion, Reyna for the motion, Semmelmann for the motion, Dean against the motion, and Rangel against the motion. The motion to deny Zoning Case # 06-371 passed by a vote of three to two (3:2).

Public hearing to consider Zoning Case #06-372, with attached Ordinance - A request by Gerald and Robbie Johnson, applicant and property owners, to rezone approximately 1.1172 acres of land from R-1 (Single-Family Dwelling) to a B-2 (Retail) zoning district.

Community Development Director, Melinda Smith, addressed Council stating that property owners and case applicants Gerald and Robbie Johnson were requesting rezoning of 1.1172 acres from R-1 (Single-Family Dwelling) to a B-2 (Retail) zoning at 5332 Blackberry Drive. Ms. Smith described the surrounding zoning and land use and noted that the property had been zoned R-1 (Single Family Dwelling) since 1949. She stated that the 2003 Master Plan addressed the area in general and that any development in the area should provide adequate buffers to the surrounding residential areas. She noted that the proposed B-2 (Retail) zoning district appears to provide a suitable buffer and transition from the B-3 (Commercial) area along Wurzbach Road to the residential

Councilman Art Reyna left the meeting at 8:45 p.m.

Ms. Smith stated that ten letters were mailed to property owners within 200-feet of the site, two letters were received in favor and no letters were received in opposition of the case, and one letter was returned as undeliverable.

Zoning and Land Use Commission Chairman Leo Gorman stated that the Commission voted unanimously to approve this case by a vote of 7-0 on June 27, 2006.

Applicant Gerald Johnson addressed Council stating that he was available to answer any questions from Council. In response to a question from the Mayor, Mr. Johnson informed Council that plans for the site were to remodel the existing building on the site and use it as an office.

Mayor Riley opened the Public Hearing at 8:50 p.m. and asked if anyone from the audience wished to speak on the case; hearing no one the Mayor closed the public hearing at 8:52 p.m.

A motion was made by Councilmember Semmelmann, seconded by Councilmember Rangel to approve Zoning Case #06-372 as presented. Upon vote, the motion carried by a vote of four to none (4:0). Mayor Riley announced that the motion passed unanimously except for no vote from Councilman Reyna who was temporarily excused from the meeting.

Public hearing to consider Specific Use Permit #06-250, with attached Ordinance - A request by Henry Lopez, applicant and property owner, for construction and operation of a "Restaurant and/or Food Service Establishment with a Drive-Thru" to be located at 6030 Bandera Road, being Lot 3, Block 6, CB 4429K, Bandera Exchange Subdivision Unit #5. Applicant requests POSTPONEMENT of the public hearing to the meeting of August 1, 2006.

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Mayor Riley announced a request was received from the case applicant for the Specific Use Permit Case #06-250 to be postponed to the City Council meeting of August 1, 2006 for a public hearing. Development Director Smith announced a correction to the case announcement stating that after the zoning case notice was published, it was discovered that the Council meeting normally scheduled for the first Tuesday of the month was rescheduled to Wednesday, August 2, 2006; therefore, she stated that the public hearing for Specific Use Permit Case \$06-250 would be held at the City Council meeting of August 2, 2006.

Public hearing to consider Replat #06-099 - A request by Maverick Land Surveying, agent for Church Loans and Investment Trust, property owner, to replat the property at 6421 Bandera Road, being Lot 1, CB 4429, to Lots 3 and 4, CB 4429, in the Seneca Estates Subdivision Unit #7.

Community Development Director Smith presented the case particulars to Council explaining that the case was a request to replat 4.898 acres of land at 6421 Bandera Road. She informed Council that the replat was in substantial conformance and that the applicant had requested a variance to defer sidewalk construction until the building phase. She stated that staff had no objections to the variance request and she reminded Council that Council had approved a Specific Use Permit for a new shopping center to be built on the site. Ms. Smith stated that twenty-six letters were mailed to property owners within 200-feet of the site; one letter was returned undeliverable and no letters were received in favor of nor in opposition to the proposed replat.

The property owner was present for the case presentation to Council, but Council had no questions for the applicant.

Mayor Riley opened the public hearing at 8:54 p.m. and asked if anyone from the audience wished to speak on this case; seeing no one, Mayor Riley closed the public hearing at 8:55 p.m.

A motion was made by Councilmember Maloy, seconded by Councilmember Rangel, to approve Replat Case #06-099 as presented. Upon vote, the motion carried by a vote of four to none (4:0). Councilmember Reyna was not present for the vote.

Consider Resolution memorializing the Texas Department of Transportation, the Alamo Regional Mobility Authority and the County of Bexar to exclude all types of elevated roads, including toll roads, from the options for improvement of traffic volume capacity on Texas State Highway 16, also known as Bandera Road, on the portions of said road within the City of Leon Valley.

Mayor Riley read the announcement of the proposed resolution. She announced that although Councilman Reyna had not returned to the meeting she would proceed with the reading of the resolution. Councilman Reyna returned to the meeting at 8:56 p.m. Mayor Riley asked Councilman Reyna to explain his resolution.

Councilman Reyna stated that after hearing residents speak out against the proposed toll road for Bandera Road he felt that Council should put into an official document the opposition of citizens of Leon Valley to any type of elevated road, including toll roads, as an option for improvement for traffic congestion on Bandera Road.

A motion was made by Councilman Reyna to approve the resolution as presented. After several minutes of silence, Mayor Riley confirmed with the City Attorney that if the motion was not seconded,

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then no discussion could be held on the motion to include an amended motion. Councilmember Dean stated that he would reluctantly second the motion.

Councilmember Maloy offered amendments to the proposed resolution stating that after listening to the citizens at the meeting she recommended changes to the presented resolution. She stated that she wanted to add at the beginning of the Resolution that Leon Valley recognizes that they do not have jurisdiction over the State Highway. She further stated that she wished to amend the first paragraph of the proposed resolution to delete statements about excluding all types of elevated roads to read that elevated roads are to be the last rather than the primary option to be considered after all other options are thoroughly evaluated and studied and found to be unfeasible to adequately address the relief of current and projected traffic congestion. She further recommended that the third "whereas" clause in the resolution be changed to read that the elimination of financial, aesthetic damage to property owners and residents until objective studies have been completed to evaluate potential measurable harm from the road change options. Councilmember Maloy further recommended that the fourth "whereas" clause be amended to delete the statement all "residential homeowners and commercial businesses et. al." She stated that the clause should include "until further public hearings are conducted" and after the results of the studies are received. She stated that the City has heard from less than one hundred people in a City of almost 10,000 residents. She recommended that citizens voice their opinions at the July 27, 2006 public meeting being hosted by the Regional Mobility Authority (RMA).

City Attorney Jacobson was asked to incorporate the proposed amendments to the resolution.

A second to the motion to amend the motion to approve a resolution originally presented by Councilman Reyna was not received. Councilmembers stated that were waiting until the amended resolution could be read before the motion could be seconded.

Councilman Reyna asked if the motion could be withdrawn now so that the amendments could be drafted properly and considered later. After discussion with the City Attorney, Councilmember Maloy asked for her motion to be withdrawn. Councilmember Dean withdrew her second to the main motion and Councilman Reyna withdrew his resolution.

A motion was made by Councilmember Dean, seconded by Councilman Reyna, to table consideration of the resolution until the City Council meeting of July 18, 2006. Councilmember Semmelmann stated that it seemed to him that all of this could have been avoided if they could have discussed the issues before the Resolution was written. He stated that the Council had worked as a team on things like this in the past, and all of a sudden there was a resolution in the Council packet. He expressed his concerns that eliminating an option for overhead lanes to address the traffic congestion in Leon Valley before all other options had been fully considered was not advisable.

Councilmember Dean stated that he agreed with Councilmember Semmelmann and that he felt that he knew where Councilmember Maloy was going with her amendment as he didn't agree with the original resolution. He stated that the resolution was non-binding to the Texas Department of Transportation (TxDOT) and he didn't want to raise people's expectations that the resolution would stop TxDOT or the RMA from proceeding with a particular plan.

Councilman Reyna stated that he understood that the Resolution was supported by the majority of the people of Leon Valley and that he did not discuss the resolution with other members of Council

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in keeping with the Open Meetings Act. He stated that he felt that an elevated toll road would destroy Leon Valley and he recommended that Council approve the original resolution.

A motion was then again made by Councilman Reyna to approve the resolution as originally presented stating that no vote was taken on tabling the consideration of the resolution to the July 18m 2006 City Council meeting. The motion did not receive a second.

Following continued Council discussion, Mayor Riley called for a vote on tabling consideration of the resolution until the July 18, 2006 City Council meeting. Upon vote, the motion carried by a vote of four to one (4:1) with Councilman Reyna voting in opposition to the motion.

City Manager's report.

City Manager Cortes stated that he had nothing to report.

Citizens to be Heard.

Resident Sandy Barnwell addressed Council stating that cities around the country were tearing down elevated highways such as in San Francisco, Syracuse, Fort Worth and Houston. She stated that Houston said no to an elevated highway and TxDOT put in a tunnel under the highway and bridges over the intersections. She suggested eliminating traffic lights on Bandera Highway and putting bridges over the road for cross traffic.

Resident Phillip Manea stated that he was not sure who Council represents but he felt that it was not the businesses or residents of Leon Valley.

Resident Bobbie Schott stated her opposition to the elevated toll road and she delivered a letter from a neighbor who was not able to attend the meeting to Council.

City Attorney Jacobson stated that, at the July 18, 2006 City Council meeting, the original resolution should be presented for a motion and a second. He provided Council suggestions and direction on procedures for considering any amendments to the Resolution to be considered by Council at the next Council meeting.

Announcements.

Councilmember Maloy announced that the next Trade and Market Days Committee would begin at 9:30 a.m. on Saturday, July 8, 2006 and invited everyone to attend. She thanked Councilmembers Rangel and Semmelmann for their continued assistance during the Market Days and again asked for volunteers.

Councilmember Rangel thanked everyone for their participation in the Fourth of July parade and celebration. He thanked the Civic Affairs Committee, staff and the Public Works Department for their assistance. Mayor Riley echoed her appreciation for the work

City Manager Cortes stated that a calendar of budget hearings would be provided to Council. He stated that the Sign Ordinance would be considered after the budget process.

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Adjourn.

A motion by Councilmember Reyna, seconded by Councilmember Rangel, to adjourn the meeting. Mayor Riley adjourned the meeting at 9:30 p.m.

Liz Maloy
Mayor Pro Tem

ATTEST:

Marie Feutz
City Secretary

Minutes were approved at the August 2, 2006 City Council Meeting chaired by Mayor Pro Tem Liz Maloy.